



U. S. vs. Rosenbergs

The Rosenbergs were convicted of conspiracy to violate the Espionage Act (18 U.S.C. 794) by furnishing information relating to the national defense to Russia with "intent or reason to believe that the same is to be used to the injury of the United States or to the advantage of a foreign nation." The case reached the Supreme Court eight times on different points. Many of them pertain to the admissibility of evidence, sufficiency of the indictment, and other such matters specific to the case itself, but three major Constitutional questions were raised. The Supreme Court refused to reverse the conviction or to reduce the sentence on any of the grounds presented. The claims of unconstitutionality were:

(1) that the statute violated the First Amendment by interfering with free speech; the Court held that free speech did not include the right to communicate defense information to a foreign government;

(2) that the statute was indefinite and therefore violated the due process clause of the Fifth Amendment; the Court held that the prohibited act was defined with sufficient specificity;

(3) that the sentence of death was a cruel and unusual punishment since the prohibited act was tantamount to treason, while the procedural requirements for treason (two witnesses to an overt act) were not met, and that therefore a subterfuge was being employed to justify the death penalty; the Court disposed of this argument by pointing out that treason was not the only capital crime on the statute books.

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